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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,926

02/27/2004

Silke Wolff

4965-000176

8928

27572 7590 01/17/2007
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EXAMINER

BOLDEN, ELIZABETH A

ART UNIT

PAPER NUMBER

1755

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/789,926

Applicant(s)

WOLFF ET AL.

Examiner

Elizabeth A. Bolden

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 3-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 19 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/27/04, 11/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

Applicant's election of Group I, claims 1-12 and 19, with further of the elected Species A, claims 1, 2, and 19 in the reply filed on 20 July 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

In addition to claims 13-18 indicated by the Applicant's Representative as withdrawn from consideration, the claims of the non-elected Species B and C of the previous Office Action, which were not elected should also have status indicators labeling the claims 3-12 as withdrawn.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The IDS submitted 27 February 2004 and 30 November 2004 have been considered by the Examiner.

Claim Objections

Claims 1 objected to because of the following informalities: typographical errors.

In Claim 1 the weight percent ranges for P₂O₅ and CaO both have a starting value of "0.". It is believed that the value for P₂O₅ should actually be 0.1 weight percent based on paragraphs [0033] and [0042]. It is not completely clear what the value for the CaO should actually be based on the specification. See paragraphs [0033], [0036], and [0045]. For the purposes of examination the lower limit for P₂O₅ will be set at 0.1 wt % and the lower limit of CaO will be set at 0.0 wt percent.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 2, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al, U.S. Patent 5,747,395.

Smith et al. teach glass composition having overlapping ranges of components with instant claims 1, 2, and 19. See Abstract and column 2, lines 35-52.

Smith et al. fail to teach any examples or ranges that are sufficiently specific to anticipate the instant claims. Overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges taught by the reference because overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Speit et al, U.S. Patent 4,520,115.

Speit et al. teach glass composition having overlapping ranges of components with instant claim 19. See Abstract and column 2, lines 32-61

Speit et al. fail to teach any examples or ranges that are sufficiently specific to anticipate the instant claims. Overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges taught by the reference because overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Claims 1, 2, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al, Japanese Patent Publication 60-221338 A

The English language Abstract that was filed with the IDS will be used for this rejection, the examiner will cite the Abstract.

Inoue teaches glass composition having overlapping ranges of components with instant claims 1, 2, and 19. See Abstract.

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Inoue fails to teach any examples or ranges that are sufficiently specific to anticipate the instant claims. Overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges taught by the reference because overlapping ranges have been held to establish *prima facie* obviousness. See MPEP 2144.05.

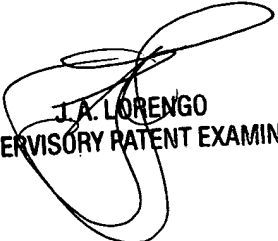
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 571-272-1363. The examiner can normally be reached on 10 am to 8:30 pm every Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

7 January 2007


J.A. LORENGO
SUPERVISORY PATENT EXAMINER